

09/473,080

well known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well known" see MPEP 2144.03 (A). It is specifically recited in claim 4 that, "in a sequence of command signals transmitted by the center equipment controller to control the control relays of a plurality of tap paths, successive command signals are transmitted to different receiving districts". The Applicant adamantly denies that this feature is capable of instant and unquestionable demonstration as being well known to the "substantial evidence" standard as required by case law. If the Examiner disagrees with the Applicant, with respect to this matter, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant on Appeal.

While Stern et al. '557 may arguably relate to a wired broadcasting system, it is specifically the type of esoteric system over which the present invention is a significant improvement. As discussed in the Background of the Invention at least at pages 4 and 5, and specifically the second full paragraph of page 5, the Applicant explicitly relates the specific power supply and command signal problems associated with the known systems. These problems in the art, as exemplified by the '557 system, specifically refute the Examiner's contention of taking Official Notice of what is well known in the art. In fact, because the presently claimed system overcomes the known problems in the art, this is specific evidence of non-obviousness.

Therefore, the Applicant respectfully requests the Examiner to produce evidence as required by case law that the Applicant's claimed feature is well known and obvious in the art. As also set forth in MPEP 2144.03 (A), it is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. Zurco, 258 F.3d at 1385, 59 USPQ2d at 1697. Therefore, if possible, the Applicant requests the Examiner to indicate the evidence, namely, specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or

isclosure is not present in at least the applied references, the raised rejection should be withdrawn at this time.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 14-0213).

Respectfully submitted,



Scott A. Daniels, Reg. No. 42,462
Customer No. 020210
Davis & Bujold, P.L.L.C.
Fourth Floor
500 North Commercial Street
Manchester NH 03101-1151
Telephone 603-624-9220
Facsimile 603-624-9229
E-mail: patent@davisandbujold.com

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as First Class Mail in an envelope addressed to: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450. August 1, 2003.

By: 

Print Name: Scott A. Daniels